

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

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118293

FILE: B-206377

DATE: May 4, ' 32

MATTER OF: C & W Associates, Inc.

DIGEST:

GAO will not question a contracting officer's nonresponsibility determination that has been affirmed by the SBA's refusal to issue a certificate of competency.

C & W Associates, Inc. protests the rejection of its offers under solicitations DABT-58-82-Q-0008, DABT-58-82-Q-0009 and DABT-58-82-Q-0010 issued by the Department of the Army. We dismiss the protest.

The contracting officer initially rejected C&W's offers as "nonresponsive," because C&W did not meet certain minimum experience requirements set forth in the solicitation. On further review, the Army determined that the basis for the rejections actually related to the firm's responsibility, and found C&W nonresponsive. Because C&W is a small business concern, the Army referred the nonresponsibility determinations to the Small Business Administration (SBA) for consideration under SBA's Certificate of Competency (COC) procedures, as required by 15 U.S.C. § 637(b)(7) (Supp. III 1979). The Army advises that the SBA has declined to issue the COCs.

Since by law the SBA has conclusive authority to determine all elements of a small business firm's responsibility, our Office will not question a contracting officer's determination that a small business concern is nonresponsive where that determination has been affirmed by SBA's denial of a COC. Vernitron Corporation, B-201832.4, September 25, 1981, 81-2 CPD 250. In addition, we will not question SBA's refusal to issue a COC in the absence of a showing of fraud or bad faith. Stoner - Caroga Corp. Inc., B-204307, August 26, 1981, 81-2 CPD 182. There is no evidence of fraud or bad faith here.

B-206377

2

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel